

Members Present

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| John McNeal, Chair | State Council for Persons with Disabilities |
| David Bartoo | DNREC |
| Marsha Carson | DOS ADA Title II Coordinator |
| Ken Grant | AAA |
| Richard Klepner | Office of Highway Safety (OHS) |
| Nicole Majeski | DelDOT |
| Louisa Phillips | AHA |
| John Sisson | Wilmapco/DTC |
| Todd Webb | DelDOT |
| Helen Wiles | Dover-Kent MPO |

Members Absent

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| Helen Arthur | DHSS |
| Doug Denison | Department of State |
| Lauren Devore | Sussex County |
| Bill Jiron Jr. | Governor's Appointee |
| William Payne | Caregiver |
| Michael Wagner | Department of Education |
| Jessie Welch, Co-Chair | Governor's Appointee |

Support Staff

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| Linda Osiecki | DelDOT |
| Farzana Atique | McCormick Taylor |
| Annie Cordo | DOJ |

Guests

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| Lt. Tracy Condon | DSP |
| Annie Cordo | DOJ |
| Jonathan Kirch | AHA |
| Chip Kneavel | DelDOT |
| C.R. McLeod | DelDOT |
| Paul Moser | DelDOT |
| Jackie McDermott | OHS |
| Tom Nickel | DelDOT |
| Jim Pappas | DelDOT |
| Mary Roth | Delaware Greenways |
| Tigist Zegeye | WILMAPCO |

I. CALL TO ORDER AND INTRODUCTIONS

The meeting was called to order at 10:00 am by Chair John McNeal.

II. MEETING MINUTES REVIEW (October 22, 2019)

Mr. Kirch made a reference to an email that he sent which is more of an explanation to the comments that he made in the October 22nd, 2019 meeting after Mr. Ken Grant's presentation on Auto Technology and Pedestrian Safety.

In his email, Mr. Kirch explained, "while the marketing of these collision avoidance technologies would suggest that driver's can ease their worry and perhaps relax their diligence, the vehicles operators manuals and other legal documents probably state just the opposite, automakers have great legal representation, of course. This was then connected to the idea that the current design speeds of roadways are *inherently and knowingly dangerous* and that a new review, scrutiny, and approach to a controversy that arises from a pedestrian being struck by a vehicle in the road way could conceivably yield a judicial decision that attempts to hold accountable the engineering decisions and attestations regarding safety that do not seem to coincide with a real world understanding of typical human behavior and engineering principles. I did refer to some New York court decisions that seem to rest upon this line of thinking and those opinions can be found here: [Turturro v. City of New York](#) (2016), and [Brown v. State](#) (2018)."

Upon the motion of Mr. Sisson and seconded by Ms. Majeski, the council approved the meeting minutes.

III. MEMBERSHIP UPDATES

Mr. McNeal said that in order for us to get to where we need to be, we should think about adding members to the group such as the State Office of Planning. We can make recommendations to the Governor to expand the membership. Mr. Webb recommended the inclusion of the League of Local Governments for municipalities to have representation especially when we start talking about diverting funding from the MPOs to municipalities. Ms. Osiecki said there has been discussion at the subcommittee level to include the Office of State Planning, MPOs and counties.

Mr. McLeod said that at the January meeting of the Legislative and Policy Subcommittee, they discussed about making recommendations to the council about adding members and changes to some of the texts. Mr. McLeod said that each county should have a representative because most of our topics cross over land use issues.

Mr. McNeal asked that the subcommittee make final recommendations for the council to vote on at the April meeting.

Mr. McLeod said that the other request sent to the Legislative and Policy Subcommittee is to review the goals of the Council. Mr. Kirch requested that the subcommittee considers explicitly stating as one of the goals of the Council to reduce pedestrian deaths.

Ms. Osiecki said that future meetings of the Pedestrian Council will be at the Delaware Room which can be accessed through the new South Entrance.

IV. PEDESTRIAN FATALITIES UPDATE

Mr. Richard Klepner said that there were 32 pedestrian fatalities for 2019 which was up from 24 in 2018. 21 fatalities were in New Castle, 4 in Kent and 7 in Sussex. There were 6 in December and 70% were under dark condition. As far as alcohol impairment: 1 driver, 13 pedestrians, 3 didn't have any alcohol or drugs and the rest we do not have information yet.

Mr. Sisson asked if these data can be presented as graphs next time. Mr. McNeal agreed. Mr. Webb said it would be nice to know what counties they're in and whether they're at municipal limits.

For 2020, we already have 3 pedestrian fatalities as of today versus 2 this time last year.

Ms. Osiecki also showed a map of where these crashes occurred. One was on Route 1 north of Fenwick Island, one was in Rehoboth and one was in New Castle County on Route 40.

Regarding information confidentiality, Mr. Klepner said that the state code limits the data that they are allowed to release. The way OHS interprets the law is they can only release general data for use in reports like their annual report. The rest, they are not allowed to release for public consumption but they are working on changing that policy.

Ms. Osiecki cited for example when the Dover Bike-Ped Subcommittee asked for data about pedestrian fatalities in the area, instead of generating a report, she had to go on the DSP website to get them. She said that needs to change.

Ms. Majeski said there was legislation last year through the DSHS to clean up that part of the code but it did not prosper. The legislation will be taken up again this year.

Mr. McNeal said it seems silly that all this information are available on the newspaper but we struggle to see them at the quarterly meetings. He hopes that this would change soon.

Ms. Majeski said we can make a map that shows when and where pedestrians were killed but as far as personal information, we can't do that.

V. ROLES AND RESPONSIBILITIES OF THE PEDESTRIAN COUNCIL

Mr. McNeal referenced a newspaper article published on January 17, 2020 where it stated that the Pedestrian Council was created in 2015 after an all-time high of 36 pedestrian deaths. That's heavy burden on the council.

He said that the council should talk about what specific bullets are given to this council and whether they are meeting the goals or not. The third paragraph of EO54 is about Complete Streets and Mr. McNeal asked if there has been an implementation plan of Complete Streets.

Mr. McNeal pointed out that the executive order about complete streets was issued perhaps in 2011 and the time that has since passed is somewhat unforgivable. Mr. McNeal said that in

between EO82 and EO54, we have spent 10-15 years discussing the issue of lowering pedestrian death rate but it has only elevated. So it is either we are not concentrating on the right things or our recommendations are not being implemented.

He said that it's important to reevaluate things because we don't want to be here again five years from now still discussing things. He said he knows that the subcommittees are doing tremendous work but we need to come up with something concrete.

Right now a big part of the responsibility lies on this council. From his understanding the role of this council is to develop recommendations to DelDOT and for DelDOT to determine what they can undertake. He is not saying that DelDOT hasn't done things. And it's not just DelDOT. OHS has great responsibilities too but this council is to report to DelDOT only.

Goal 1: Identify gaps in the system of pedestrian paths and sidewalks in an effort to create system of sidewalks and pathways that is continuous and interconnected.

Are we identifying gaps? Ms. Majeski said yes and it has been presented to this Council. An inventory has been done.

Mr. Webb clarified if we are only talking about state-maintained roads? Mr. McNeal said yes – which he believes is roughly 500 miles from a couple of years ago which must have increased by now. Mr. McNeal said that there are more that's not accounted for because they are maintained by municipalities.

Mr. Kirsch said that we should have an exercise where we can identify gaps and ask the municipalities to fill them.

Ms. Majeski said that from DelDOT's end, they are identifying gaps, prioritizing them and constructing them using open-ended contracts through the Pedestrian Accessibility Route Program.

Mr. Sisson said he understands the frustration. The council started five years ago and it is frustrating that the numbers aren't changing and it's frustrating that it takes long to change existing infrastructure. Progress have been made on infrastructures but you don't feel it when the numbers jump back to 30 something. How do we refocus and make better recommendations to DelDOT? And if we need to bring municipalities here, how do we bring them in here? But it will take time.

Ms. Majeski said that DelDOT can provide the council a its accomplishments since the council started and what the council's recommendations are and what DelDOT has implemented. She said that with the Capital Transportation Program, DelDOT is spending more money now with sidewalks than five years ago. They are also implementing sidewalk projects that are stand-alone. Ms. Majeski said DelDOT would be more than happy to put together a report or presentation.

Mr. Webb said there are also a lot of projects out there where DelDOT was the administrator of

funds to fix sidewalks. These are in subdivisions and unincorporated areas. Bond Bill money is set aside every year to fix these. Rule 11 or Rule 12 dictates what they should be used for. But there has to be some really serious conversation about the amount of money in the Bond Bill versus the amount of sidewalks in linear feet done. And that conversation should happen here. There are many people walking from subdivisions to destination areas such as shopping and schools, etc. DelDOT doesn't have a say on how the money is spent. They only get direction from the Legislature. That is part of the gap.

Mr. McNeal said pedestrian injuries happen on subdivision roads and he asked where we can get those data.

Ms. Osiecki said there are other ways for analyzing pedestrian facilities other than they exist. There's pedestrian level of service, analyze what the comfort factor is as they walk. There are other ways of classifying pedestrian facilities.

Mr. McNeal pointed out the success of the bicycle council over the years. There were times when many cyclists show up at the Legislative Hall to educate them about the importance of bicycling. For some reason walking is being taken for granted even though it is a fundamental form of transportation.

Mr. Kirch said that recently an 11-year old was hit on Kirkwood Highway. He thinks we need a change in narrative. He doesn't think anybody would do it for us. Mr. Kirch pointed out that a trail was just completed at the White Clay Creek State Park. But you need to cross Paper Mill Road to get to the trail from the playground. He said that the crossing was signed and signal but he still didn't feel safe crossing. Our roads are not safe. Our roads are inherently dangerous and we should be saying that.

Mr. Klepner said that OHS does look at pedestrian fatalities and injuries although people focus heavily on the fatalities. By far the age group most affected by pedestrian crashes are people below the age of 18. They represent about 30-40% of pedestrian injuries in the state. Most of those are on 25/30 mph roadways. If we are going to change the narrative, maybe we can say that the most people getting hit are 4-14 years old and changes are needed to be made to address this. Improvements for everyone.

Mr. Klepner said that there seems to be an issue with the executive order. To say that DelDOT is the only entity responsible is misleading.

Mr. McNeal proposed a multi-day retreat. If that is possible. Rethink a way to rewrite the executive order. Because if he gets asked what the Pedestrian Council does, his response would be to advise DelDOT.

Lt. Condon asked if there a way to get the population increase for Delaware. Things are changing drastically and she wonders if population increase should be factored in.

Mr. Klepner said pedestrian fatalities per capita comes out once a year but it does not take into effect the increase in the number of tourists. He pointed out that although they saw an increase

in fatalities in Sussex County, majority of fatalities are from New Castle – in lower income neighborhood. Low income next to high speed roads.

Goal 2: Provide advice regarding design standards for crosswalks, sidewalks and pathways ensuring ADA compliance.

Mr. McNeal asked if this is occurring. Mr. Sisson said there's the Built Environment Subcommittee. Ms. Osiecki said not much has been done regarding ADA compliance but she does review plans for DelDOT – both DelDOT projects and those that go through the subdivision review process. But as far as the Built Environment is concerned, they are not providing advice to DelDOT as far as ADA is concerned.

Mr. Sisson asked if there are issues regarding the current standard and if there is, to bring it up to the Council.

Mr. Moser suggested adding the word “roadway” in there.

Mr. Pappas said there is the AASHTO standards that they follow and if for some reason they cannot be there, design exceptions must be approved by Chief Engineer. As engineers, they follow those design standards whether for roads, bridges, etc.

Mr. Kirch said that the standards are dangerous for 50 years or so now and that's the discussion that we need to have. Mr. Pappas said he would be happy to have a conversation regarding this and show the design standards that they follow and their plans are being reviewed by cross section throughout the department. All divisions of DelDOT have the opportunity to review plans.

Mr. McNeal asked if the Built Environment Subcommittee has this expertise and if they can report to the council quarterly.

Mr. Pappas said that the challenge that they have right now is tracking the sidewalks because they build a lot. This something they are trying to fix moving forward.

Mr. Sisson said if there is a design standard problem, they should be brought up to this council so it can be addressed.

Mr. Moser said AASHTO is coming up with a non-motorized standards.

Ms. Osiecki showed a picture of diagonal curb ramps that do not align with the crosswalks.

Mr. Webb said that in a meeting with DVI, this topic came up. Most of the time the problem is when a project is within a municipality, DelDOT is limited in scope. Usually, they are asked to do something quick like mill and pave a road. We should hear from the users themselves or user groups. One example of a design standard that we can bring to the council is the right turn lane. When a motorist needs to turn right, they literally have to turn their body to merge. And they can't see the pedestrian.

Mr. McNeal said DelDOT has a lot of leverage when it comes to ADA projects in municipalities. There are federal funding available to municipalities through DelDOT and they require ADA compliance. Mr. McNeal emphasized that more people without disabilities will enjoy ADA compliant facilities.

Mr. Webb said we need to get MPOs and municipalities to understand that they are required to be ADA compliant and what they need for Title 2 entity. Self-assessment and have a schedule that is detailed.

Mr. McNeal said that municipalities shouldn't receive federal funding unless they are ADA compliant. They shouldn't receive funds unless they've met their obligations.

Goal 3: Provide advice regarding implementation of DelDOT's Sidewalk and Multi-Use Path Maintenance Policy.

Mr. McNeal said that if it is one of the Council's role is to review this, then we should be reviewing this. Ms. Atique said that a presentation was made before the Council in 2018 and then recently the Legislative and policy Subcommittee also discussed this based on what other states are doing and they decided to invite DelDOT's Maintenance Section to know more.

Mr. Kirch said that this is typical – to have discussion but at the end of the day it comes down to dollars and cents. Eventually, it comes down to just having a discussion and nothing gets done and there's a reason the dynamic is left unchanged. We can change that but it involves making people uncomfortable.

Mr. McNeal said if we cannot respond to any of the bullets to just recommend removing them.

Ms. Majeski recommended to focus on the 5 bullets in the annual report. Our subcommittees were created to do that but other things would come up, which are good, but if we want to focus on that, then our annual report should reflect that.

Mr. McNeal said the Council really needs to sit down and put work on the bullet points. There must be a reason why the prior council is shelved and perhaps it was because it wasn't serving its purpose.

Ms. Majeski said the unfortunate thing is anybody can make recommendations. The council can make recommendations say to the county or municipalities, but we have no control over them. But it is worth the conversation.

Goal 4: Review traffic rules to help promote a safe environment.

Mr. McNeal said that this is a shared responsibility - drivers, pedestrians, land use. Ms. Majeski said there are engineering standards but there are also the behavioral aspect and enforcement aspect.

Mr. Kirch said that the design of our roadways encourages speed.

There are other measures we can undertake. There are modifications that can be done at intersections. Look at FHWA's Pedsafe publication and conduct research on what else can be done to reduce crashes.

Goal 5: Develop strategies for pedestrian safety awareness.

Mr. McNeal said that a number of things have been done. Reflective items are good idea. Increase the budget as one of recommendations. Bicycle Council gives grants to municipalities as seed money to pursue a project.

Mr. Sisson said to bring an amount to the council.

Other Responsibilities: Statewide Pedestrian Action Plan.

Mr. McNeal said that one of the core responsibilities of the council is to assist in the reevaluation and implementation of the Statewide Pedestrian Action Plan. It hasn't been updated since 2007 so the council should look into that.

Mr. Webb recommended that that the plan be reviewed at the subcommittee level and sent back to the council.

Ms. Phillips made a motion to make recommendations to the Governor to rewrite Executive Order 54 Governor. The motion was seconded by Ms. Majeski and approved by all. Executive Order 54 will be examined at the subcommittee level.

Ms. Phillips said to consider pedestrian injuries too because we will not know if we're making progress if we're not counting.

Ms. Wiles said that MPOs need to know all these things. They send out surveys so please fill them out.

Mr. Kirch recommends thanking and commending people who advocate moving around other than cars.

ADJOURN

The meeting was adjourned at 11:20 am. The next meeting is on April 27, 2020 at 10:00 am.